

1 CAPITAL ONE BANK, N.A. ("Capital One"); and DISCOVER BANK ("Discover")
2 (collectively, the "Parties"), by and through their counsel of record, as follows:
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4 WHEREAS, documents and information have been and may be sought, produced or
5 exhibited by and among the parties to this action relating to trade secrets, confidential research,
6 development, technology or other proprietary information belonging to the defendants and/or
7 personal income, credit and other confidential information of Plaintiff.

8 THEREFORE, an Order of this Court protecting such confidential information shall be
9 and hereby is made by this Court on the following terms:

10 1. This Order shall govern the use, handling and disclosure of all documents,
11 testimony or information produced or given in this action which are designated to be subject to
12 this Order in accordance with the terms hereof.

13 2. Any party or non-party producing or filing documents or other materials in this
14 action may designate such materials and the information contained therein subject to this Order
15 by typing or stamping on the front of the document, or on the portion(s) of the document for
16 which confidential treatment is designated, "Confidential."

17 3. To the extent any motions, briefs, pleadings, deposition transcripts, or other
18 papers to be filed with the Court incorporate documents or information subject to this Order,
19 the party filing such papers shall designate such materials, or portions thereof, as
20 "Confidential," and shall file them with the clerk under seal; provided, however, that a copy of
21 such filing having the confidential information deleted therefrom may be made part of the
22 public record. Any party filing any document under seal must comply with the requirements of
23 Local Rules.

24 4. All documents, transcripts, or other materials subject to this Order, and all
25 information derived therefrom (including, but not limited to, all testimony, deposition, or
26 otherwise, that refers, reflects or otherwise discusses any information designated Confidential
27 hereunder), shall not be used, directly or indirectly, by any person, including Plaintiff, Capital
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1 One, Experian and Discover for any business, commercial or competitive purposes or for any
2 purpose whatsoever other than solely for the preparation and trial of this action in accordance
3 with the provisions of this Order.

4 5. Except with the prior written consent of the individual or entity designating a
5 document or portions of a document as "Confidential," or pursuant to prior Order after notice,
6 any document, transcript or pleading given "Confidential" treatment under this Order, and any
7 information contained in, or derived from any such materials (including but not limited to, all
8 deposition testimony that refers, reflects or otherwise discusses any information designated
9 confidential hereunder) may not be disclosed other than in accordance with this Order and may
10 not be disclosed to any person other than: (a) the Court and its officers; (b) parties to this
11 litigation; (c) counsel for the parties, whether retained counsel or in-house counsel and
12 employees of counsel assigned to assist such counsel in the preparation of this litigation; (d)
13 fact witnesses subject to a proffer to the Court or a stipulation of the parties that such witnesses
14 need to know such information; (e) present or former employees of the producing party in
15 connection with their depositions in this action (provided that no former employees shall be
16 shown documents prepared after the date of his or her departure; and (f) experts specifically
17 retained as consultants or expert witnesses in connection with this litigation.

18 6. Documents produced pursuant to this Order shall not be made available to any
19 person designated in Subparagraph 5 (f) unless he or she shall have first read this Order, agreed
20 to be bound by its terms, and signed the attached Declaration of Compliance.

21 7. All persons receiving any or all documents produced pursuant to this Order shall
22 be advised of their confidential nature. All persons to whom confidential information and/or
23 documents are disclosed are hereby enjoined from disclosing same to any person except as
24 provided herein, and are further enjoined from using same except in the preparation for and
25 trial of the above-captioned action between the named parties thereto. No person receiving or
26 reviewing such confidential documents, information or transcript shall disseminate or disclose
27 them to any person other than those described above in Paragraph 6 and for the purposes
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1 specified, and in no event, shall such person make any other use of such document or
2 transcript.

3 8. Nothing in this Order shall prevent a party from using at trial any information or
4 materials designated "Confidential."

5 9. This Order has been agreed to by the parties to facilitate discovery and the
6 production of relevant evidence in this action. Neither the entry of this Order, nor the
7 designation of any information, document, or the like as "Confidential," nor the failure to make
8 such designation, shall constitute evidence with respect to any issue in this action.

9 10. Inadvertent failure to designate any document, transcript, or other materials
10 "Confidential" will not constitute a waiver of an otherwise valid claim of confidentiality
11 pursuant to this Order, so long as a claim of confidentiality is promptly asserted after discovery
12 of the inadvertent failure. If a party designates a document as "Confidential" after it was
13 initially produced, the receiving party, on notification of the designation, must make a
14 reasonable effort to assure that the document is treated in accordance with the provisions of
15 this Order, and upon request from the producing party certify that the designated documents
16 have been maintained as confidential information. **The designating party shall have the**
17 **burden of proving that any document designated as CONFIDENTIAL is entitled to such**
18 **protection.**

19 11. Within sixty (60) days after the final termination of this litigation, all documents,
20 transcripts, or other materials afforded confidential treatment pursuant to this Order, including
21 any extracts, summaries or compilations taken therefrom, but excluding any materials which in
22 the good faith judgment of counsel are work product materials, shall be returned to the
23 Producing Party.

24 12. In the event that any party to this litigation disagrees at any point in these
25 proceedings with any designation made under this Protective Order, the parties shall first try to
26 resolve such dispute in good faith on an informal basis. If the dispute cannot be resolved, the
27 party objecting to the designation may seek appropriate relief from this Court. During the
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1 pendency of any challenge to the designation of a document or information, the designated
2 document or information shall continue to be treated as “Confidential” subject to the provisions
3 of this Protective Order.

4 13. Nothing herein shall affect or restrict the rights of any party with respect to its
5 own documents or to the information obtained or developed independently of documents,
6 transcripts and materials afforded confidential treatment pursuant to this Order.

7 14. The Court retains the right to allow disclosure of any subject covered by this
8 stipulation or to modify this stipulation at any time in the interest of justice.
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IT IS SO STIPULATED.

Dated: June 15, 2017

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ORDER

IT IS SO ORDERED.

Dated: 6/16/2017


UNITED STATES MAGISTRATE JUDGE